-NIQA

JS 44 (Rev. 06/17)

2:17-cv-3774

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
John Parker

DEFENDANTS
Liberty Life Assurance Company of Boston

17 3774

(b) County of Residence of First Listed Plaintiff: Bucks County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
William H. Bishop, IV, Esq.
Bishop, Dorfman, Kroupa & Bishop, P.C.
1617 JFK Blvd., Suite 1290, Phila., PA 19103 (215-561-7100)

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)* *(For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
29 USC 1132

Brief description of cause:
claim for long term disability benefits

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ____ DOCKET NUMBER ____

AUG 22 2017

DATE: 08/16/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # ____ AMOUNT ____ APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____

NICA

UNITED STATES DISTRICT COURT 17 3774

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 256 Centennial Road, Warminster, PA 18974

Address of Defendant: 175 Berkeley Street, Boston, MA 02117

Place of Accident, Incident or Transaction: Philadelphia, PA

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No XX

Does this case involve multidistrict litigation possibilities? Yes☐ No XX

RELATED CASE, IF ANY:
Case Number: ______ Judge ______ Date Terminated: ______

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No XX
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☐ No XX
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No XX
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No XX

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases*:
1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. XX All other Federal Question Cases
(Please specify) 29 USC 1132 - ERISA

B. *Diversity Jurisdiction Cases*:
1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) ______

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, ______, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: ______ ______ Attorney-at-Law ______ Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38. AUG 22 2017

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/16/2017 ______ Attorney-at-Law 208622 Attorney I.D.#

CIV. 609 (5/2012)

NIQA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

John Parker	:	CIVIL ACTION
v.	:	
Liberty Life Assurance Company of Boston	:	NO. 17 3774

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

08/16/2017	[signature]	Plaintiff, John Parker
Date	**Attorney-at-law**	**Attorney for**
215-561-7100	215-561-6268	wbishop@bdkblaw.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

AUG 22 2017

#410

NRQA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN PARKER, Plaintiff, v. LIBERTY LIFE ASSURANCE COMPANY OF BOSTON, Defendant.	:	17 3774 CIVIL ACTION NO.

COMPLAINT IN CIVIL ACTION

1. This is an action arising under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq. (hereinafter "ERISA"), to redress the wrongful denial of long term disability benefits.

JURISDICTION AND VENUE

2. This action is brought pursuant to 29 U.S.C. § 1132(a)(1)(B). This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1).

3. Venue is proper in this district pursuant to 29 U.S.C. § 1132(e)(2) because the acts complained of occurred within this district.

PARTIES

4. Plaintiff John Parker (hereinafter "Plaintiff") is and at all relevant times was a Pennsylvania resident with an address of 256 Centennial Road, Warminster, PA 18974.

5. Plaintiff alleges upon information and belief that Liberty Life Assurance Company of Boston (hereinafter "Defendant") is and at all relevant times was a corporation authorized to transact the business of insurance in Pennsylvania and was the claims administrator

for the Target Corporation Group Disability Income Policy, with a principal place of business at 175 Berkeley Street, Boston, MA 02117.

FACTUAL BACKGROUND

6. Plaintiff was formerly employed by Target Corporation as a Flow Team member at the Target retail store located at 7400 Bustleton Avenue, Philadelphia, PA 19152.

7. On July 17, 2015, Plaintiff sustained a disabling right shoulder rotator cuff injury while performing his job duties that required surgical intervention on August 24, 2015.

8. As a result of the incident, Plaintiff was rendered incapable of performing his previous duties as a Flow Team member, which consisted of unloading, stacking, storing and cleaning duties within the warehouse of the retail location, and unable to return to his pre-injury position.

9. On the date of the above incident, Plaintiff was insured under the Target Corporation Group Disability Income Policy, Policy No. GF3-840-444446-01, a general policy of disability insurance administered by Defendant (hereinafter the "Plan"), by which Defendant agreed to insure and pay benefits to the Plaintiff up to the policy limits for all periods of partial and/or total disability within the coverage afforded by the Plan.

10. On July 18, 2015, Plaintiff discontinued his work as Flow Team member due to the injuries he suffered in the incident of July 17, 2015 and subsequent right shoulder surgery.

11. The Plan naming Plaintiff as an insured was valid, binding and effective at the time of the disability and, by reason of its terms and provisions, Plaintiff was an insured and entitled to coverage under the policy terms.

12. Under the Plan, short term disability benefits were approved by Defendant and were received by Plaintiff for the period of July 18, 2015 through December 19, 2015.

13. By letter dated January 15, 2016, Defendant wrongfully denied the long term disability benefits Plaintiff is entitled to under the terms and provisions of the Plan.

14. Plaintiff thereafter appealed, in the manner prescribed by the Plan, Defendant's wrongful disallowance of long term disability benefits by letter dated July 7, 2016.

15. On August 24, 2016, Defendant wrongfully rejected Plaintiff's appeal of the decision to disallow the long term disability benefits that Plaintiff is entitled to under the terms and provisions of the Plan.

16. Plaintiff has made demand upon the Defendant as required under and in compliance with the terms and conditions of the Plan to provide the benefits and coverage required under the Plan. Plaintiff has satisfied all prerequisites necessary for the filing of this Complaint.

COUNT I: ERISA

17. Paragraphs 1 through 16 of this Complaint are incorporated herein by reference as if fully set forth at length.

18. The Plan is an employee benefit plan within the meaning of Section 3 of ERISA, 29 U.S.C. § 1002(3).

19. Plaintiff is a participant in the Plan and is covered by the policies that provide long term disability benefits under the Plan.

20. Plaintiff is entitled to long term disability benefits under the terms of the Plan.

21. Defendant, through its agents and representatives, has issued only a portion of the benefit amounts Plaintiff is entitled to receive under the Plan.

22. Defendant has failed and refused to provide the Plaintiff with the benefits he is entitled to receive as required by and consistent with the plain language and terms of the Plan.

23. The decisions to deny benefits were wrong under the terms of the Plan and lacking in any reasonable factual, medical or legal basis.

24. The failure of Defendant to provide Plaintiff with the benefits he is entitled to receive pursuant to the Plan is a violation of the Plan and of ERISA.

25. As a direct and proximate result of the aforesaid denial of benefits, Plaintiff has sustained and continues to sustain economic loss and damage.

26. Pursuant to Section 29 U.S.C. § 1132(a)(1)(B), Defendant is liable to the Plaintiff for the aforesaid loss and damages.

27. As a result of Defendant's denial, Plaintiff has been required to retain counsel and incur attorney fees and expenses to secure the benefits due under the terms of the Plan.

28. Pursuant to 29 U.S.C. § 1132(g)(1), this Court is authorized to award reasonable attorneys' fees and costs.

WHEREFORE, Plaintiff respectfully requests that this Court grant him the following relief:

(A) a finding in favor of Plaintiff against Defendant;

(B) damages in the amount equal to the long term disability benefits to which Plaintiff was entitled through date of judgment, for unpaid benefits pursuant to 29 U.S.C. § 1132(a)(1)(B);

(C) pre-judgment and post-judgment interest;

(D) an order requiring the Defendant to pay continuing benefits in the future so long as Plaintiff is entitled to receive them under the terms of the Plan;

(E) Plaintiff's reasonable attorney fees and costs pursuant to 29 U.S.C. § 1132(g)(1); and

(F) such other relief as this Court deems just and proper.

Respectfully submitted,

BISHOP, DORFMAN, KROUPA
& BISHOP, P.C.

BY: ______________________________

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